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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/763,871	01/26/2004	Sadie V. Simms	CMB505	6006

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EXAMINER

NEWTON, JARED W

ART UNIT	PAPER NUMBER
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3634

DATE MAILED: 10/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/763,871

Applicant(s)

SIMMS, SADIE V.

Examiner

Jared W. Newton

Art Unit

3634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 8-10, and 12 is/are allowed.
- 6) ☒ Claim(s) 1-7 and 11 is/are rejected.
- 7) ☒ Claim(s) 7-12 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|-----------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

At the outset, it is noted that the applicant did not include in the present application an information disclosure statement in compliance with 37 CFR 1.98(a)(1), which requires the following: (1) a list of all patents, publications, applications, or other information submitted for consideration by the Office; (2) U.S. patents and U.S. patent application publications listed in a section separately from citations of other documents; (3) the application number of the application in which the information disclosure statement is being submitted on each page of the list; (4) a column that provides a blank space next to each document to be considered, for the examiner's initials; and (5) a heading that clearly indicates that the list is an information disclosure statement.

Claim Objections

Claims 7-12 are objected to as claiming subject matter that is not part of the present invention. In particular, recitations citing "band holding members" and "ribbon-receiving slots" render the claims indefinite because the bands and ribbons are not a positive part of the present invention. Hence, a reference need only contain members capable of holding bands and slots capable of receiving ribbons to meet the limitations of the claims. It is suggested that the claims be canceled or changed to functionally claim the above subject matter through a recitation such as, "...wherein said top tray also includes a plurality of members for holding hair bands..."

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S.

Patent No. 5,894,944 to Swift.

In regard to claim 1, Swift discloses a tray device comprising a bottom tray 12 comprising a bottom 34 and side walls 20; pedestal support members including a first pedestal support member 14 being attached upon said bottom tray; a tubular pedestal 16 being securely and removably attached to said pedestal support member 22; and a top tray 18 being removably attached upon said tubular pedestal 16 (see FIG. 1).

In regard to claim 2, Swift further discloses said bottom tray 12 including a plurality of partitions 36 being disposed upon said bottom wall 34 of said bottom tray 12 and being arranged to form a plurality of storage compartments (see FIG. 1).

In regard to claim 3, Swift further discloses said pedestal support members 14, 16 being boss, or cylindrical members.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 3634

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4, 5, and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over '944 to Swift as applied to claims 1-3 above, and further in view of U.S. Patent No. 3,911,856 to Ewing.

In regard to claims 4 and 5, Swift discloses a device comprising all of the limitations of claim 3. Swift further discloses said first pedestal mounting member centrally disposed on said bottom tray 12, as well as said tubular member 16 comprising open top and bottom ends and a bore extending therethrough (see FIG. 1). Swift does not disclose; (a) said pedestal support member being centrally disposed within one of said storage compartments (claim 4); external threads being disposed about a sidewall of said pedestal support member (claim 4); and (c), said first pedestal support member being threadingly received within said bore of said tubular member (claim 5).

With respect to (b) and (c), Ewing discloses a tray device comprising a central threaded hub 15, and a tubular internally threaded cap cover 46 which threadingly receives said hub (see FIGS. 1 and 2). It would have been obvious to one of ordinary skill in the art at the time of the invention to replace the pedestal mounting means as disclosed by Swift with the externally threaded hub as disclosed by Ewing. It would have been further obvious to one of ordinary skill in the art at the time of the invention to provide said tubular member as disclosed by Swift with internal threading as disclosed by Ewing so that it threadingly engages said hub as does the cover cap as taught by

Art Unit: 3634

Ewing. The motivation for providing the Swift reference with the mounting means of the Ewing reference would be to strengthen the connection between said tubular member and said pedestal mounting means, so that the tubular member would not detach from the mounting means when an upward force is applied to the tubular member.

With respect to (a), the examiner takes official notice that it would have been obvious to one of ordinary skill in the art at the time of the invention to include the hub as disclosed by Ewing centrally disposed within one of said storage compartments as disclosed by Swift. The motivation would be to not interfere with the partitions that define the storage compartments. It would have been obvious to one of ordinary skill in the art at the time of the invention to dispose said hub at any location about said first tray that does not interfere with said partitions.

In regard to claim 6, Swift in view of Ewing discloses a device comprising all of the limitations of claims 1-5 as set forth above, and Swift further discloses a second pedestal support member, cup 64, which is centrally attached and engages in a hole in a bottom side of a wall of said top tray and is engagably and removably received in said bore through said open top end of said tubular pedestal (see FIG. 2).

Claims 7 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over '944 to Swift in view of '856 to Ewing as set forth above, and in further view of U.S. Patent No. 6,938,766 to Lee.

Swift in view of Ewing discloses a device comprising all of the limitations of claims 1-6 as advanced above. Swift further discloses said top tray 18 comprising a plurality of members or compartments capable of holding bands and being spacedly

Art Unit: 3634

disposed upon a top side of said wall thereof (see FIG. 1), but does not disclose slots capable of receiving ribbons. Lee discloses a fiber holding tray comprising upper 13 and lower 61 portions connected by a tubular pedestal member 16, said upper portion 13 comprising a plurality of slots 19 disposed around its wall 14, said slots capable of receiving ribbon or other long strand-like items. In regard to claim 11, Lee further shows said slots defined by side edges which have central portions which are bowed away from one another and which also have end portions which are closely spaced from one another forming a narrow slot (see FIG. 1). It would have been obvious to one of ordinary skill in the art at the time of the invention to include the slots as disclosed by Lee around the edge of the upper tray as disclosed by Swift. The motivation for including the slots would be to provide additional support means for items that are related to the items stored in the upper and lower trays to Swift, wherein said items require suspension or hanging.

Allowable Subject Matter

Claims 8-10, and 12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claim. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jared W. Newton whose telephone number is (571) 272-2952. The examiner can normally be reached on M-F 8-5.

Art Unit: 3634

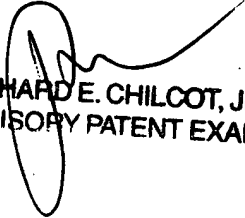
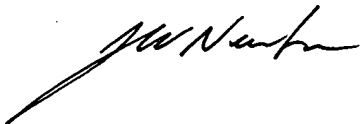
Conclusion

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on (571) 272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JWN

October 26, 2005



RICHARD E. CHILCOT, JR.
SUPERVISORY PATENT EXAMINER